



Department of
**Environment &
Conservation**

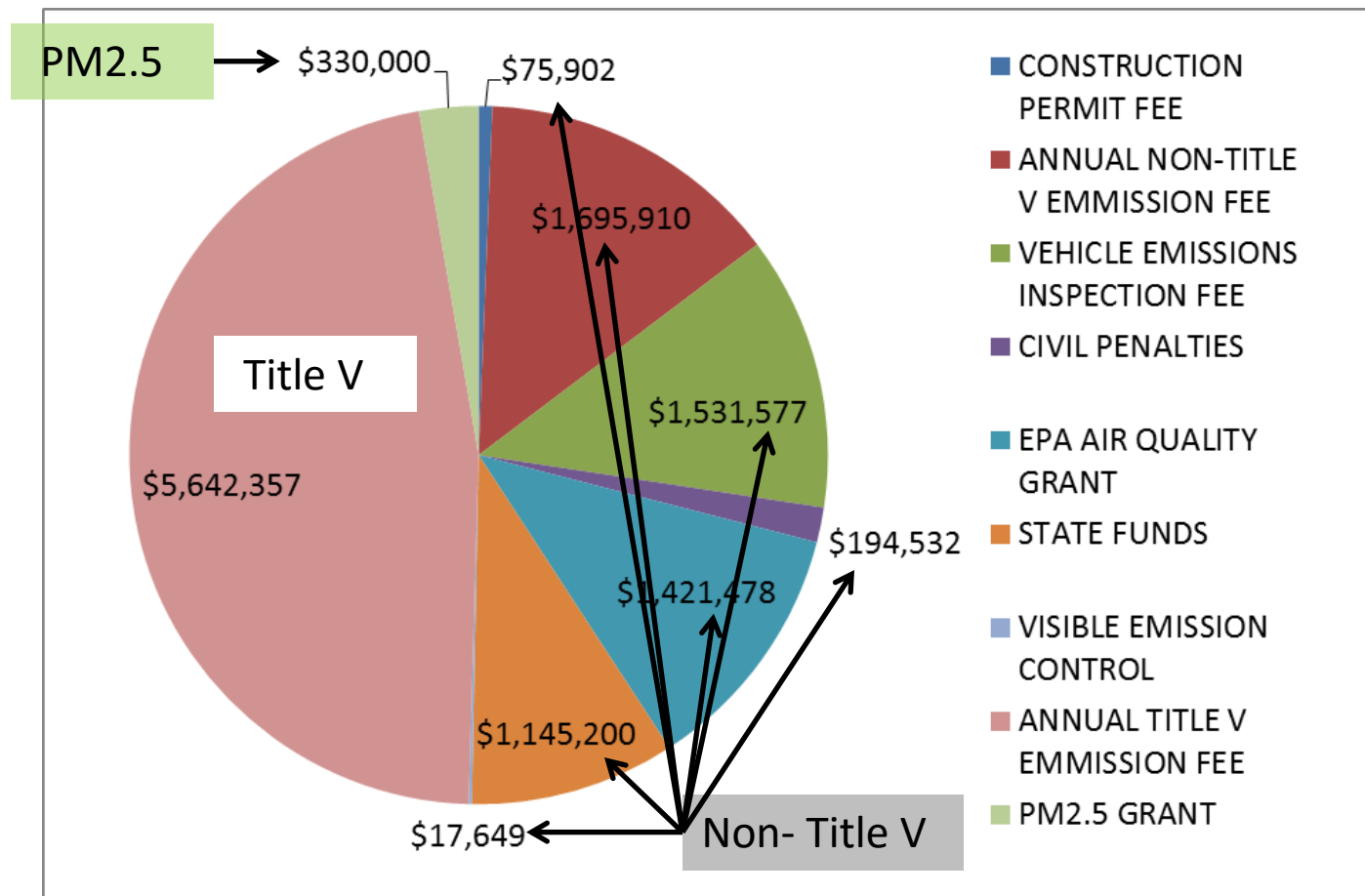
**Title V and non-Title V Fee Project
(aka Phase II Fee Project)
Environmental Show of the South
May 17, 2018**

Topics Covered

- Brief Background on Non-Title V Fees
- Statutory & Regulatory Requirements
- Current Fee Structures
- Expense & Income Trends
- Need for Fee Revisions
- Options for Changing 2020 Fees
- Stakeholder Input
- Fee Analysis Tools
- Timeline
- Website

What are Title V Fees?

Average of 2015-2017



Note: This chart is a simplified representation of APC funding. Actual budgetary and accounting information is much more complicated. Does not include “pass-through” funds or one-time funding. Does not include payments to counties as part of I/M program.

What Statutory Requirements Apply to Air Quality Fees?

Tennessee Environmental Protection Fund Act

TN Code § 68-203-103 – Fees

(a) (1) In order to facilitate the proper administration of each statute listed in § 68-203-101(b), the **department of environment and conservation shall charge fees** for the various services and functions it performs under each of those statutes, including, but not limited to, **permit processing fees, permit maintenance fees**, license fees, registration fees, plans review fees, facility inspection fees and **emission fees**.

What Statutory Requirements Apply to Air Quality Fees?

Tennessee Environmental Protection Fund Act

TN Code § 68-203-103 – Fees

(a) (2) The **level of these fees** shall be determined after careful consideration of the **direct** and **indirect costs** incurred by the department in performing its various functions and services under each of the statutes listed in § 68-203-101(b).

What Statutory Requirements Apply to Air Quality Fees?

Tennessee Environmental Protection Fund Act

TN Code § 68-203-103 – Fees

(a)(3) It is the intention of the general assembly that the **fees shall provide funding for additional staff** of the environmental regulatory programs and an **improvement of the salaries and benefits** of the existing staff of the environmental regulatory programs, to continue **to improve performance in carrying out its duties.**

What Statutory Requirements Apply to Air Quality Fees?

Tennessee Environmental Protection Fund Act

TN Code § 68-203-103 – Fees

(a)(3) (continued) Prior to promulgating any fee increase, the authorities listed in subsection (b) shall review the basis for the fee increase and **make a determination that the fee increase is warranted**. The **factors** in the determinations shall include, if relevant: **staffing needs, ability to attract and retain quality staff, feasible cost containment measures, comparisons with salaries paid by other governments and the private sector, levels of federal grants and state appropriations, and the ability of the program to maintain or improve its performance** in carrying out its duties.

What regulatory requirements apply to air quality fees?

1200-03-26-.02 CONSTRUCTION AND ANNUAL EMISSION FEES

(1) Purpose

- (a) It is the purpose of this rule to establish construction fees, annual emission fees, and permit review fees for sources subject to permitting pursuant to Division 1200-03 sufficient to **supplement existing state and federal funding** that covers **reasonable costs (direct and indirect)** associated with the **development, processing, and administration** of the **air pollution control program**. This will provide for better quality evaluation of the impact of air emissions on the citizens of Tennessee, and timely permitting services for sources subject to permitting requirements.

What regulatory requirements apply to air quality fees?

1200-03-26-.02 CONSTRUCTION AND ANNUAL EMISSION FEES

(1) Purpose

(b) Such costs shall **include, but not be limited to**, costs associated with **review of applications** and **reports**, issuance of required **permits** and associated **inspections** of sources, **unit observation**, review and evaluation of **monitoring results (stack and/or ambient)**, **modeling**, and costs associated with any necessary **enforcement** actions (excluding penalties assessed).

What regulatory requirements apply to air quality fees?

1200-03-26-.02 CONSTRUCTION AND ANNUAL EMISSION FEES

(1) Purpose

- (c) Annual emission fees collected from sources named by the Board in the Division's Workload Analysis as being major sources pursuant to the provisions of **Title V** of the federal Clean Air Act and the federal regulations at 40 C.F.R. Part 70 [FR Vol 57, No. 140, Tuesday, July 21, 1992 p32295-32312] and the definition of a major source in subparagraph 1200-03-26-.02(2)(g) shall be used to pay for the direct and indirect costs of:
1. Preparing generally applicable **regulations or guidance** regarding the permit program or its implementation or enforcement;
 2. Reviewing and acting on any application for a **permit, permit revision, or permit renewal**, including the development of an applicable requirement as part of the processing of a permit, or permit revision or renewal;
 3. General **administrative costs** of running the permit program, including the supporting and tracking of permit applications, compliance certification and related data entry;

What regulatory requirements apply to air quality fees?

1200-03-26-.02 CONSTRUCTION AND ANNUAL EMISSION FEES

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4. **Implementing and enforcing** the terms of any part 70 permit (not including any court costs or other costs associated with an enforcement action), including adequate resources to determine which sources are subject to the program;
 5. **Emissions and ambient monitoring;**
 6. **Modeling**, analyses, or demonstrations;
 7. Preparing **inventories** and tracking **emissions**; and
 8. Providing direct and indirect support to sources under the **Small Business Environmental Assistance Program**.

Recent Title V Fee Rule Revisions

Starting with Fees Due 2018 – Due Date Change

- Previously all fees due **July 1**
 - **90 day extension** available with payment of **80% of fees by July 1**
- Revised Due Dates:
 - Fees based on **Allowable** Emissions – due **April 1**
 - Fees based on **Actual** or **Mix** of Actual & Allowable:
 - **Calendar Year** Accounting Period Used to Calculate Fees – due **April 1**
 - **90 day extension** available with payment of **65% of fees by April 1**
 - **Fiscal Year** Accounting Period Used to Calculate Fees
 - **65% due April 1**
 - **Remainder due July 1**
 - » **90 day extension** available with if **requested by April 1 (along with 65% of Fees)**

Title V Fees

Rate Change & Base Fee Starting with Fees Due 2019

	Previous \$/ton Rate	New \$/ton rate
Non-EGU Actual	\$43.00	\$53.50
EGU Actual	\$49.50	\$75.00
Non-EGU Allowable	\$32.50	\$33.50
EGU Allowable	\$39.00	\$47.00

- Base Fee = \$4000 per facility (previously no base fee)
- Minimum Fee = \$7500 (same as previous)
- **Rates based on assumption that FY2019 will be funded in part by drawing ~\$900,000 from reserve**
 - FY2020 Title V Fee System will Need to be Revised to Increase Fee Collections by this much as well as other projected increases cost.
- Workload Analysis Covered FY2018 and FY2019

Annual non-Title V Emission Fees

- \$18.75/ton of Allowable Emissions
- **Statutory Limit on \$/ton fee = \$18.75**
- Conditional Major Sources also pay annual “permit review fee”

Total Allowable Tons Per Year	Review Fee	# of Facilities that Pay this Rate
0-50 Tons/Year	\$250	38
50.1 – 100 Tons/Year	\$500	77
100.1 – 250 Tons/Year	\$1000	152
250.1 and up	\$2000	48

- Payment due Annually based on County in which Facility is Located
- Average amount collected past three years = \$1,695,910

Construction Permit Fees

Anticipated Maximum Emission Rate	Permit Fee	Avg. # that pay this rate
Less than 10 Tons/Year	\$100	143
10 to < 100 Tons/Year	\$500	128
100 to < 250 Tons/Year	\$1000	11
250 to < 500 Tons/Year	\$2000	0
500 to < 1000 Tons/Year	\$3000	0
1000 to < 5000 Tons/Year	\$4000	0
5000 and Greater Tons/Year	\$5000	0

- Existing Title V Facilities* exempt from Construction Permit Fees
- Payment due with Application
- Statutory Limit = \$7500
- Average Annual Amount Collected = \$89,300

*Allowable non-HAP Emissions > 100 tons/year per Pollutant; Allowable HAP Emissions > 10 tons single HAP/25 tons total HAP

Construction Permit Fees – Permit Modifications

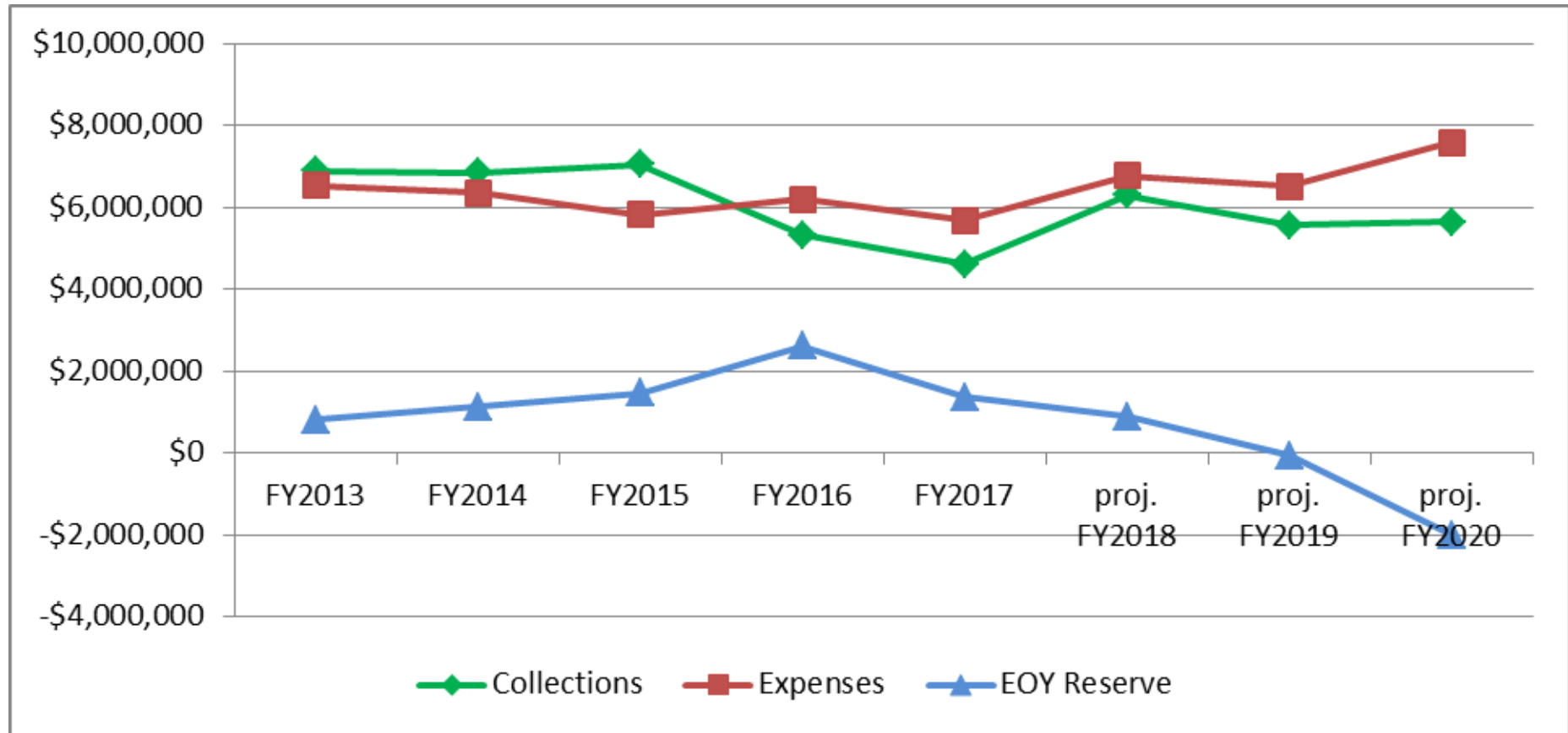
- Revisions to a permit which will result in an increase in emissions
 - 50% of Construction Permit Fees
 - Not to Exceed \$500
 - Payment due with Application
- Change to a source that will require a new construction permit
 - 50% of Construction Permit Fees
 - Not to Exceed \$500
 - Payment due with Application
- Average Annual Amount Collected = \$11,800

Anticipated Maximum Emission Rate	Permit Fee	Avg. # that pay this rate
Less than 10 Tons/Year	\$50	50
10 to < 100 Tons/Year	\$250	31
>= 100 Tons/Year	\$500	6

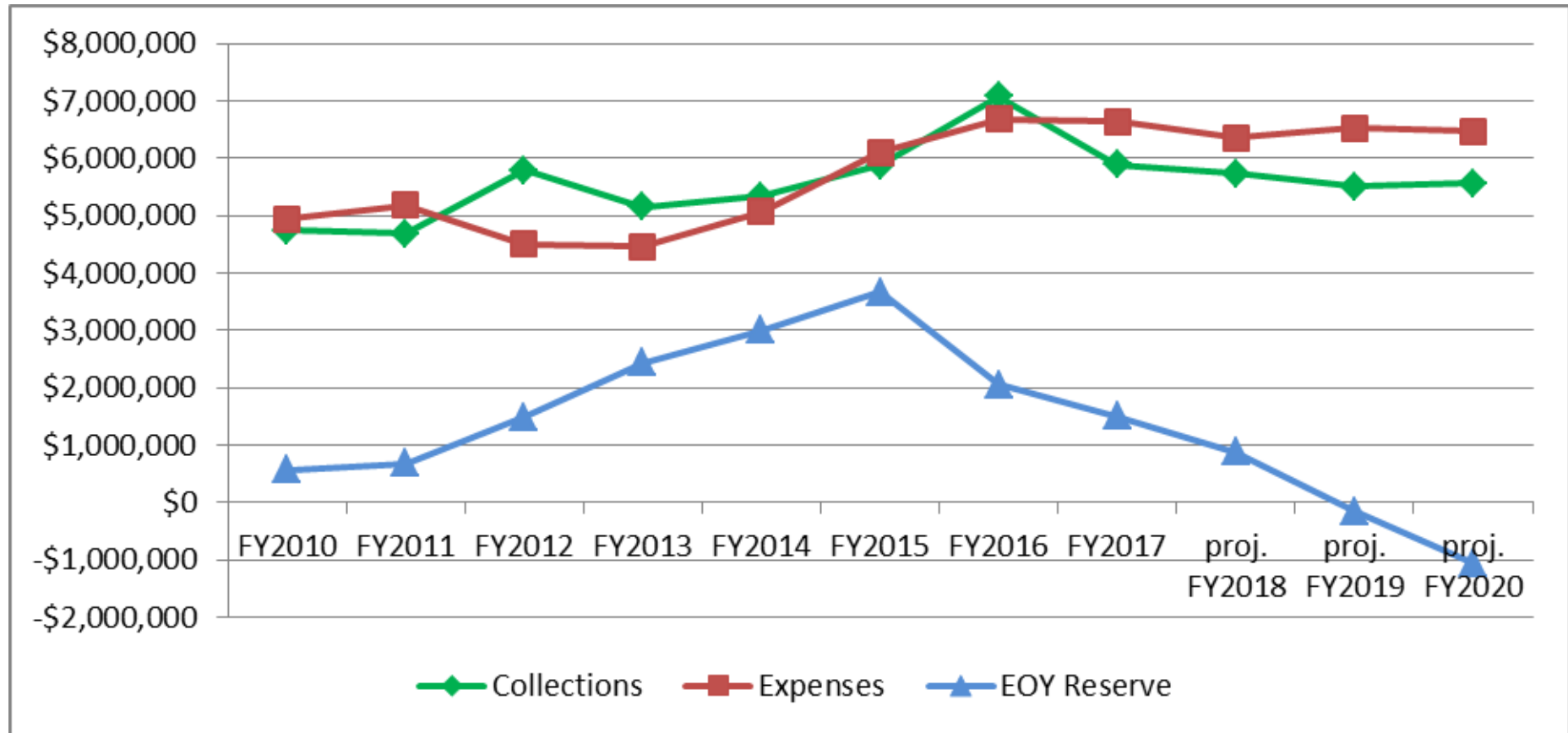
Visible Emissions Evaluation Course (Smoke School) Fees

- Current Fees
 - Initial Certification Tennessee Applicant - \$125.00
 - Initial Certification Out-of-State Applicant - \$175.00
 - Recertification Tennessee Applicant - \$95.00
 - Recertification Out-of-State Applicant - \$125.00
- Payment due when Registering for Smoke School (held twice per year per EPA method 9 certification requirements)
- Average amount collected past three years = \$17,649
- Private Firms
 - \$240 to \$415 for initial certification (lecture and field certification)
 - \$200 to \$265 for recertification (field certification)

Historical and Projected Title V Income vs. Expenses and End-of-Year Reserve (updated)



Historical and Projected non-Title V Income vs. Expenses and End-of-Year Reserve (updated)



Need for Title V Fee Revision

- Title V Reserve will be Depleted During Fiscal Year 2019 (FY2019)
 - Projected **Negative Balance of ~\$100,000**
- FY2020 Title V expenses will Significantly Exceed Title V Fee Income
 - **Shortfall = ~\$2,000,000**
- Need Fee increase starting in FY2020
 - Meet Expenses
 - Restore Reserve
 - Provide Stability for Upcoming Years
- All Estimates Subject to Change

Need for non-Title V Fee Revision

- Non-Title V Reserve will be Depleted During Fiscal Year 2019 (FY2019)
 - Projected **Negative Balance of ~\$100,000 - \$200,000**
- FY2020 Non-Title V expenses will Significantly Exceed Title V Fee Income
 - **Shortfall = \$800,000 - \$1,000,000**
- Need Fee increase starting in FY2020
 - Meet Expenses
 - Restore Reserve
 - Provide Stability for Upcoming Years
- All Estimates Subject to Change

Options for Changes to Title V Fees

- Increase \$/ton
- Increase base fee
- Increase minimum fee
- Change fee structure
- Remove Construction Fee exemption for Title V sources
 - Add fee for Op Flex and Insignificant Activities, Title V modifications and amendments
- Require Construction Fees for Major NSR, including PALs
- Fees for Services (such as model review, providing emissions inventory data, stack testing observation and review)
- Starting with 2021 Fees: Annual CPI adjustment (with APC Board Approval)
- Expedited Construction Permit Fees

Options for Changes to non-Title V Fees

- non-Title V annual fees
 - Increase Conditional Major “review” fee
 - Add base fee for all sources (and/or minimum fee)

Options for Changes to non-Title V Fees

- Construction fees
 - Revise/Re-structure fee schedule to increase fees (within max allowed by statute)
 - Increase maximum fee, currently \$5000 – statutory limit is \$7500
 - Increase modification fee, currently \$500 – statutory limit is \$7500
 - Add modification fees for permit amendments requested by permittee (e.g., extending expiration date, changing recordkeeping)
 - Add fee for “operational flexibility” determinations for non-Title V sources
 - Add fee for “insignificant activity” determinations for non-Title V sources when rules require such determinations
 - Expedited Permit Fees

Options for Changes to non-Title V Fees

- Add Fees for General Permits
 - One-Time Fee at Issuance that covers operation for remaining term of permit
 - Different Fees for different General Permits
- Add Fees for Permit-by-Rule
- Fees for Services provided by APC (such as model review, stack test observation and review)
- Increase Smoke School Fees



Non-Title V Survey Results

Non-Title V Survey Results

- Survey sent to all non-Title V permittees
- Responses due 4/30/2018
- Questions fell into three categories
 - Ranking of options from most acceptable to least acceptable
 - More information about each option and a scale of how acceptable that particular option is.
 - Questions about if a face-to-face meeting is desired and when and where such a meeting might be.
- Total of 60 respondents

Non-Title V Survey Results

- Most acceptable options:
 - Increase Construction fees
 - Increase review fees for Conditional Major sources
 - Add a fee for general permits
 - Add a fee for permit modifications
 - Increase fees for source modifications
- All options will still be considered and weighed as to overall effect on reaching the goal of the fee changes and their impact on businesses.

Non-Title V Survey Results

- There was a slight preference for fee changes being weighed more towards construction than operating.
- Respondents were against a base fee by a moderate amount.
- Respondents were against charging a fee for permit amendments, operational flexibility determinations, insignificant source determinations, and permit-by-rule.
- There was a slight preference for charging a fee for general permits.
 - There was also a preference for charging different fees for different general permits (i.e. Dry Cleaners and Concrete Batch Plants).

Non-Title V Survey Results

- Most felt that the fees should be good for 5 years with the next option being for 10 years.
 - The last fee change was 7 years ago.
- A majority of respondents also wanted a face-to-face meeting with morning being preferred. The most requested locations were:
 - Nashville
 - Jackson
 - Knoxville
 - Chattanooga

Other Stakeholder Input

- Few Additional Comments Received via email
- Input will be solicited during May 18th TV webinar and May 25th non-Title V webinar

How to Provide Input & Get Further Information

- Submit comments and questions by email to:
 - air.permitting.permits@tn.gov
 - Include phrase “Title V fees” or “non-Title V fees” in subject line of email as appropriate
- Small businesses may contact Tennessee’s Small Business Environmental Assistance Program at:
 - bgsbeap@tn.gov

Fee Analysis Tools

- Allows stakeholder to explore options for revising fees
- Includes actual emissions data
- Includes APC financial goals
- Posted on Fee Website

Stakeholder Process – Title V

- Email to all Title V sources– 4/6/2018
- Kickoff Webinars - 4/23/2018
 - present information & solicit input
- Second Webinar – 5/18/2018 – **revised date**
 - review stakeholder input
- Third Webinar - 6/13/2018 – **subject to change**
 - present analyses and strawmen
- Stakeholder Comments on Strawmen – date TBD
- Other Outreach
 - Statewide & Regional Organizations
 - Presentations at Conferences and Meetings

Stakeholder Process – non-Title V

- Email to all non-Title V sources– 4/4/2018
- Kickoff Webinars - 4/18/2018 & 4/26/2018
 - present information & solicit input
 - response to survey due 4/30/2017
- Second Webinar – 5/25/2018 - **revised date**
 - review stakeholder input including survey results
 - Face-to Face Meetings to be scheduled if Survey Indicates a Need
- Third Webinar - **6/15/2018 – DATE REVISED – Subject to Change**
 - present analyses and strawmen
- **Face-to-Face Meetings at TDEC Environmental Field Offices**
 - **Jackson, 6/18/2018, 9:00 am central time**
 - **Knoxville, 6/20/2018, 9:00 am eastern time**
 - **Nashville, 6/22/2018 , 9:00 am central time**
- Stakeholder Comments on Strawmen – date TBD
- Other Outreach
 - Statewide & Regional Organizations
 - Presentations at Conferences and Meetings

Rulemaking Process - Title V and non-Title V

Tentative Time Frame

- Initial Board Briefing – 3/14/18
- Stakeholder Process – April through July, 2018
- Second Board Briefing with proposed rule – 8/8/2018
- Public Notice with Proposed Rule – No Later than 8/22/2018
- Webinar to Discuss Proposal - ~ two weeks after public notice
- Public Hearing – 10/16/2018
- Board Adoption – 11/14/2018
- File with Secretary of State – No Later than 1/16/2019
- Effective Date of Rule – 4/16/2019
- Change in Fees Effective FY2020 (starts 7/1/2019)

Fee Website

- <https://www.tn.gov/environment/program-areas/apc-air-pollution-control-home/apc/permits-air/permit-air-permit-fees.html>
- Go to www.tn.gov/environment
 1. Select "Permitting"
 2. Select "Air Permits"
 3. Select "Permit and Annual Emission Fees"
 4. Select "non-Title V Annual Fees " or "Construction and Modification Application Fees" for non-TV Fees
 5. Select "Title V Fees" For Title V Fees

New non-Title V Fee Website

- Current Rules
- Stakeholder Information
 - Webinar Information
 - Analysis Tools
 - Presentations
 - Stakeholder Comments
- Proposed Rule Revisions

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Questions?